

**COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS
AGENDA ITEM TRANSMITTAL**

(1) DEPARTMENT Administrative Office	(2) MEETING DATE 9/20/2016	(3) CONTACT/PHONE Guy Savage 805/781-5011	
(4) SUBJECT Hearing to consider an interim zoning/urgency ordinance prohibiting the cultivation of cannabis (marijuana) with certain exceptions in the unincorporated portions of San Luis Obispo County; exempt from CEQA. All Districts.			
(5) RECOMMENDED ACTION It is recommended that the Board consider and adopt an interim zoning/urgency ordinance prohibiting the cultivation of cannabis (marijuana) with certain exceptions in the unincorporated portions of San Luis Obispo County by 4/5 vote.			
(6) FUNDING SOURCE(S) General Fund	(7) CURRENT YEAR FINANCIAL IMPACT \$0.00	(8) ANNUAL FINANCIAL IMPACT \$0.00	(9) BUDGETED? No
(10) AGENDA PLACEMENT { } Consent { } Presentation {X} Hearing (Time Est. <u>120</u>) { } Board Business (Time Est. <u> </u>)			
(11) EXECUTED DOCUMENTS { } Resolutions { } Contracts { } Ordinances {X} N/A			
(12) OUTLINE AGREEMENT REQUISITION NUMBER (OAR)		(13) BUDGET ADJUSTMENT REQUIRED? BAR ID Number: { } 4/5 Vote Required { } N/A	
(14) LOCATION MAP N/A	(15) BUSINESS IMPACT STATEMENT?	(16) AGENDA ITEM HISTORY { } N/A Date: <u>July 26, 2016, August 23, 2016</u>	
(17) ADMINISTRATIVE OFFICE REVIEW This item was prepared by the Administrative Office			
(18) SUPERVISOR DISTRICT(S) All Districts			

County of San Luis Obispo



TO: Board of Supervisors

FROM: Administrative Office / Guy Savage / 805-781-5011

DATE: 9/20/2016

SUBJECT: Hearing to consider an interim zoning/urgency ordinance prohibiting the cultivation of cannabis (marijuana) with certain exceptions in the unincorporated portions of San Luis Obispo County; exempt from CEQA. All Districts.

RECOMMENDATION

It is recommended that the Board consider and adopt an interim zoning/urgency ordinance prohibiting the cultivation of cannabis (marijuana) with certain exceptions in the unincorporated portions of San Luis Obispo County by 4/5 vote.

DISCUSSION

On July 26, 2016, your Board directed staff to prepare an urgency ordinance in order to halt cannabis (marijuana) cultivation in the unincorporated areas of San Luis Obispo County. The urgency ordinance was initially scheduled and noticed for August 23, 2016; but, was subsequently delayed until September 20, 2016 due to a Proclamation of Local Emergency for the Chimney Fire that was burning near Lake Nacimiento. The attached urgency ordinance remains unchanged from what was originally posted for the August 23, 2016 meeting.

The direction provided to staff regarding the unincorporated areas of the County consisted of three main points:

1. Allowance for continued Personal and Caregiver medical marijuana cultivations anywhere within the unincorporated areas of the County,
2. Moratorium of marijuana cultivation in areas of the County zoned Residential Suburban, except Personal and Caregiver marijuana cultivations, and
3. Moratorium on the commencement of new marijuana cultivations, except Personal and Caregiver cultivations.

The attached draft urgency ordinance attempts to meet the stated direction, while also considering and including additional general direction from the Board on marijuana ordinance development. Prior direction regarding topics such as safety, public facility setbacks, and pesticides are included.

The attached urgency ordinance is structured to generally prohibit the cultivation of marijuana, but to allow certain specified cultivation by qualified patients and primary caregivers. Both indoor and outdoor cultivators are limited to six plants per qualified patient and no more than 500 square feet under cultivation at any one site. Should your Board choose, you could alter the amount of marijuana plants being grown or the total square footage allowed by altering these limitations. For instance, your Board could choose to limit the square footage under cultivation at any one site to no more than 300 or 400 square feet.

Another option your Board could consider involves the definition for new plantings. Staff understood the Board's direction to be that existing cultivations should be allowed to continue the growing, harvesting, and processing of existing marijuana plants; however, no new plantings should be allowed after August 23, 2016. Your Board could consider modifying this approach to allow all existing cultivation sites, outside of areas zoned Residential Suburban, to continue replanting marijuana plants until a permanent ordinance can be developed. Under this approach, cultivations in areas zoned Residential Suburban would be allowed to harvest their existing cultivations; but, no additional planting would be allowed. From an implementation perspective, any plants (mature or immature) found in areas zoned Residential Suburban after

December 23, 2016 would be deemed to be in violation of the urgency ordinance.

The attached urgency ordinance also limits on-going efforts to Personal and Caregiver cultivations and places a moratorium on all collective and cooperative cultivations once existing plants are harvested. If your Board shifts to allowing existing cultivation sites to cultivate new plants after August 23, 2016, your Board could further consider allowing existing collectives and cooperatives to continue operations until a permanent ordinance is adopted that allows them to become licensed, "commercial" operations. The attached urgency ordinance language placing a moratorium on any cultivation in areas zoned Residential Suburban could be left intact, thereby addressing the issues currently being experienced in the California Valley area.

Although no direction was provided to staff regarding indoor or outdoor cultivations on July 26, 2016, staff understood one of the main concerns to be outdoor cultivations, particularly in the California Valley. If outdoor cultivations are the primary driver for the urgency ordinance, your Board could consider placing a moratorium on all outdoor cultivations, regardless of zoning, except for Personal and Caregiver cultivations. As noted above, existing outdoor cultivations could be allowed to complete the growing, harvesting, and processing of existing marijuana plants; however, no new plantings would be allowed after August 23, 2016. From an implementation perspective, any plants found outdoors (except Personal and Caregiver) after December 23, 2016 would be deemed to be in violation of the urgency ordinance.

Urgency Ordinance Process

Section 65858 of the California Government Code sets forth the circumstances under which a County may adopt an interim zoning ordinance as an urgency measure. This section states in part:

- Without following the procedures otherwise required prior to the adoption of a zoning ordinance, the legislative body of a county, city, including a charter city, or county, to protect the public safety, health, and welfare, may adopt as an urgency measure an interim ordinance prohibiting any uses that may be in conflict with a contemplated general plan, specific plan, or zoning proposal that the legislative body, planning commission or the planning department is considering or studying or intends to study within a reasonable time. That urgency measure shall require a four-fifths vote of the legislative body for adoption.

An ordinance adopted pursuant to Section 65858 is effective for a period of 45 days from the date of adoption. If notice is published in accordance with California Government Code section 65090 prior to the initial adoption of the interim zoning ordinance, as was done prior to this hearing on August 23, 2016, the Board may, by four-fifths vote, extend the interim ordinance for 22 months and 15 days after notice is similarly provided prior to the hearing at which the extension is enacted. An interim zoning ordinance must contain legislative findings "that there is a current and immediate threat to the public health, safety, or welfare, and that the approval of additional subdivisions, use permits, variances, building permits, or any other applicable entitlement for use which is required in order to comply with a zoning ordinance would result in that threat to public health, safety, or welfare."

Staff has already begun working on a permanent marijuana ordinance with the intent of getting the permanent ordinance enacted and effective prior to the expiration of the urgency ordinance (two years from the effective date).

OTHER AGENCY INVOLVEMENT/IMPACT

Staff from the Administrative Office, Planning and Building, Agricultural Commissioner, County Counsel, and Sheriff/Coroner all provided input on the development of this urgency ordinance.

FINANCIAL CONSIDERATIONS

This staff report and the attached proposed Urgency Ordinance were prepared using existing departmental budgets. Enforcement of the Urgency Ordinance will be completed by existing staff.

RESULTS

Adoption of the interim zoning/urgency ordinance will establish prohibitions and restrictions on the cultivation of marijuana in the unincorporated areas of San Luis Obispo County. This is consistent with providing a safe, healthy, livable, and well-governed community.

ATTACHMENTS

1. Interim Zoning Urgency Ordinance - Cannabis-Marijuana
2. Marijuana cultivation CEQA exemption statement
3. Residential Suburban Land Use Zoning
4. Correspondence Posted August 19, 2016
5. Correspondence Posted August 19, 2016
6. Correspondence - Posted August 22, 2016
7. Correspondence - Posted August 22, 2016
8. Correspondence - Posted August 22, 2016
9. Correspondence - Posted August 22, 2016